

E-Filed on 1/30/2009

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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:
USA Commercial Mortgage Company,
USA Capital Realty Advisors, LLC,¹
USA Capital Diversified Trust Deed Fund,
LLC,
USA Capital First Trust Deed Fund, LLC,²
USA Securities, LLC,³
Debtors.

Affects:

- ☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☒ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**Status And Agenda For February 3,
2009 Hearings**

Hearing Date: February 3, 2009
Hearing Time: 9:30 a.m.
10:30 a.m.

Agenda for 9:30 a.m.

1. **Status Hearing Re: Objection to Claim 1279 of Lerin Hills Ltd. in the amount of with Certificate of Service:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

Objection Filed: 3/13/07 Objection to Claim 1279 of Lerin Hills Ltd. in the amount of with Certificate of Service filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST [DE 3080]

Reply Filed: 6/06/07 Reply to Objection of the USACM Liquidating Trust to Proof of Claim File by Lerin Hills Ltd. (Claim No. 203 & 1279) Filed by MARJORIE A. GUYMON on behalf of MOUNTAIN WEST MORTGAGE, LLC [DE 3904]

Status Continued from 4/26/07, 6/15/07, 12/20/07, 2/21/08, 5/8/08

2. **Status Hearing Re: Objection to Claim 792 of Copper Sage Commercial Center LLC in the amount of \$3,500,000.00 with Certificate of Service:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

Objection Filed: 3/13/07 Objection to Claim 792 of Copper Sage Commercial Center LLC in the amount of \$3,500,000.00 with Certificate of Service filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST [DE 3077]

Declaration Filed: 3/13/07 Declaration Of: Edward M. Burr in Support of USACM Liquidating Trust Objections to Proofs of Claim and Motions to Classify Claims Filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST [DE 3082]

Opposition Filed: 4/19/07 Opposition with Certificate of Service Filed by SUSAN WILLIAMS SCANN on behalf of COPPER SAGE COMMERCE CENTER [DE 3502]

Status Continued from 4/26/07, 6/15/07, 10/15/07, 12/14/07, 2/21/08, 5/8/08

3. **Objection to Claim 203 of Mountain West Mortgage Co./Lerin Hills in the amount of \$2,048,000.00 with Certificate of Service:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

Objection Filed: 3/13/07 Objection to Claim 203 of Mountain West Mortgage Co./Lerin Hills in the amount of \$2,048,000.00 with Certificate of Service filed by ROB CHARLES on behalf of USACM LIQUIDATING TRUST [DE 3078]

1 **Declaration Filed:** Declaration Of: Edward M. Burr in Support of USACM
2 3/13/07 Liquidating Trust Objections to Proofs of Claim and Motions to
3 Classify Claims Filed by ROB CHARLES on behalf of USACM
LIQUIDATING TRUST [DE 3082]
4 **Reply Filed:** Reply to Objection of the USACM Liquidating Trust to Proof of
5 6/06/07 Claim File by Lerin Hills LTD (Claim No. 203 & 1279) Filed by
6 MARJORIE A. GUYMON on behalf of MOUNTAIN WEST
MORTGAGE, LLC [DE 3904]
7 **Status** Continued from 4/26/07, 6/15/07, 10/15/07, 2/21/08, 5/8/08,
8 7/24/08

9 4. **Status Conference Re: Amended Complaint:** 06-01212-lbr, Binford
10 Medical Developers, LLC et al v. Compass Financial Partners LLC et al

11 **Amended** Amended Complaint Filed by SUSAN WILLIAMS SCANN on
12 **Complaint filed:** behalf of BINFORD MEDICAL DEVELOPERS, LLC against
9/12/07 COMPASS FINANCIAL PARTNERS LLC [DE 80]
13 **Order filed:** Order Re Scheduling Conference. Scheduling Conference
14 12/17/08 scheduled for 2/3/2009 at 09:30 AM at LBR-Courtroom 1, Foley
15 Federal Bldg. [DE 132]

16 **Status** Continued from 1/17/07, 12/20/07, 4/17/08, 5/8/08, 7/24/08,
17 12/16/08

18 5. **Status Hearing Re: Objection to Claim 784 of BINFORD MEDICAL**
19 **DEVELOPERS:** 06-10725-lbr, USA Commercial Mortgage Company, Chapter 11

20 **Objection Filed:** Objection to Claim 784 of BINFORD MEDICAL DEVELOPERS
21 12/11/06 in the amount of filed by LENARD E. SCHWARTZER on behalf
of USA COMMERCIAL MORTGAGE COMPANY [DE 2033]

22 **Opposition Filed:** Opposition with Certificate of Service Filed by SUSAN
23 12/29/06 WILLIAMS SCANN on behalf of BINFORD MEDICAL
DEVELOPERS, LLC [DE 2329]

24 **Reply Filed:** Reply In Support of Objection to Claim 784 of BINFORD
25 01/08/07 MEDICAL DEVELOPERS Filed by LENARD E.
26 SCHWARTZER on behalf of USA COMMERCIAL
MORTGAGE COMPANY [DE 2378]

1 **Status**

2
3 6. **Objection to Claim 10725-00368 of William Panek in the amount of**
4 **\$48,047.32 with Certificate of Service:** 06-10725-lbr, USA Commercial Mortgage
Company, Chapter 11

5 **Objection Filed:** Objection to Claim 10725-00368 of William Panek in the amount
6 1/02/09 of \$48,047.32 with Certificate of Service filed by JOHN
7 HINDERAKER on behalf of USACM LIQUIDATING TRUST
[DE 6686]

8 **Status** No response filed.

9
10 7. **Objection to Claim 10725-00532 of Linda Merialdo Living Trust DTD**
11 **8/6/02 in the amount of Unknown with Certificate of Service Filed in Wrong Debtor's**
12 **Case; Objection of DTDF to Proposed Allowance of Proof of Claim:** 06-10725-lbr,
USA Commercial Mortgage Company, Chapter 11

13 **Objection Filed:** Objection to Claim 10725-00532 of Linda Merialdo Living Trust
14 1/02/09 DTD 8/6/02 in the amount of Unknown with Certificate of
15 Service *Filed in Wrong Debtor's Case; Objection of DTDF to*
16 *Proposed Allowance of Proof of Claim* filed by JOHN
HINDERAKER on behalf of USACM LIQUIDATING TRUST
[DE 6688]

17 **Status** The objection and notice were returned to Counsel. Counsel
18 obtained a current mailing address and re-mailed the objection
19 and notice to Claimant on January 20, 2009. Counsel will request
that this hearing be continued to February 20, 2009

20 8. **Objection to Claim 10725-00370 of Sherman Simmons in the amount of**
21 **\$96,094.65 with Certificate of Service Regarding Objection of USACM Trust to**
22 **Proof of Claim of Sherman Simmons Filed In Wrong Debtor's Case; Objection to**
23 **DTDF to Proposed Allowance of Claim:** 06-10725-lbr, USA Commercial Mortgage
24 Company, Chapter 11
25
26

1 **Objection Filed:** Objection to Claim 10725-00370 of Sherman Simmons in the
2 1/02/09 amount of \$96,094.65 with Certificate of Service *Regarding*
3 *Objection of USACM Trust to Proof of Claim of Sherman*
4 *Simmons Filed In Wrong Debtor's Case; Objection to DTDF to*
5 *Proposed Allowance of Claim* filed by JOHN HINDERAKER on
6 behalf of USACM LIQUIDATING TRUST [DE 6690]
7
8 **Status** No response filed.

9
10 9. **Objection to Claim 10725-01572 of William H. Lenhart Living Trust in**
11 **the amount of \$243,794.27 with Certificate of Service Filed in Wrong Debtor's Case;**
12 **objection of DTDF to Proposed Allowance of Claim:** 06-10725-lbr, USA Commercial
13 Mortgage Company, Chapter 11

14 **Objection Filed:** Objection to Claim 10725-01572 of William H. Lenhart Living
15 1/02/09 Trust in the amount of \$243,794.27 with Certificate of Service
16 *Filed in Wrong Debtor's Case; objection of DTDF to Proposed*
17 *Allowance of Claim* filed by JOHN HINDERAKER on behalf of
18 USACM LIQUIDATING TRUST [DE 6692]

19 **Status** William Lenhart contacted counsel for USACM Trust directly.
20 He does not object to disallowance of his claim to the extent it is
21 based upon an investment in DTDF, but he claims also to assert
22 claims based upon investments in Tapia Ranch and Placer
23 Vinyard. Those claims are not reflected in the proof of claim, but
24 he recently provided documentation to support them. The
25 USACM Trust will ask the Court to grant the objection to the
26 extent it relates to an investment in DTDF, but agree that the
Court's order not affect any claims based upon investments in the
Tapia Ranch and Placer Vinyards loans.

27
28 10. **Objection to Claim 10725-01435 of Philip L. and Mary Orndoff 1977**
29 **Family Trust in the amount of \$168,165.63 with Certificate of Service Filed in Wrong**
30 **Debtor's Case; objection of DTDF to Proposed Allowance of Claim:** 06-10725-lbr,
31 USA Commercial Mortgage Company, Chapter 11

32 **Objection Filed:** Objection to Claim 10725-01435 of Philip L. and Mary Orndoff
33 1/02/09 1977 Family Trust in the amount of \$168,165.63 with Certificate
34 of Service *Filed in Wrong Debtor's Case; objection of DTDF to*
35 *Proposed Allowance of Claim* filed by JOHN HINDERAKER on
36 behalf of USACM LIQUIDATING TRUST [DE 6694]

Status No response filed.

Agenda for 10:30 a.m.

1. **Scheduling Conference:** 08-01058-lbr, USACM Liquidating Trust v. Los Valles Land & Golf, LLC et al

Complaint filed: Adversary case 08-01058. Complaint *USACM Liquidating Trust's Adversary complaint Against Los Valles Land & Golf, LLC* Filed 2/26/08 by USACM LIQUIDATING TRUST vs. LOS VALLES LAND & GOLF, LLC [DE 1]

Order filed: Order Re Scheduling Conference. Scheduling Conference scheduled for 2/3/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 39]

Motion filed Motion for Summary Judgment *with Certificate of Service* Filed 12/22/08 by JOHN HINDERAKER on behalf of USACM LIQUIDATING TRUST [DE 40] (HINDERAKER, JOHN)

Status The parties are ready to proceed.

2. **Scheduling Conference:** 08-01118-lbr, USACM Liquidating Trust v. Cadeski

Complaint filed: Adversary case 08-01118. Complaint *To Avoid And Recover Pre-Petition Transfers* Filed 4/11/08 by USACM LIQUIDATING TRUST vs. JERRY CADESKI, JERRY CADESKI [DE 1]

Order filed: Order Re Scheduling Conference. Scheduling Conference scheduled for 2/3/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg. [DE 19]

Status Counsel for USACM Liquidating Trust will file a motion to dismiss.

1 3. **Status Hearing:** 08-01127-lbr, USACM Liquidating Trust v. Amesburyport
2 Corporation

3 **Complaint filed:** Adversary case 08-01127. Complaint Filed by USACM
4 4/11/08 LIQUIDATING TRUST vs. AMESBURYPORT
 CORPORATION [DE 1]

5 **Order filed:** Order Setting Status Hearing. Status hearing to be held on
6 1/21/09 2/3/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg.
 [DE 19]

7
8 **Status** Counsel will inform the Court of the status at the hearing.

9 4. **Status Hearing:** 08-01132-lbr, USA Capital Diversified Trust Deed Fund
10 LLC v. Fulton

11 **Complaint filed:** Adversary case 08-01132. Complaint Filed by USA CAPITAL
12 4/11/08 DIVERSIFIED TRUST DEED FUND LLC vs. STANLEY E
 FULTON [DE 1]

13 **Order filed:** Order Setting Status Hearing. Status hearing to be held on
14 1/26/09 2/3/2009 at 10:30 AM at LBR-Courtroom 1, Foley Federal Bldg.
 [DE 22]

15
16 **Status** The Parties have not agreed to an extension of the discovery
 deadlines and thus DTDF requests that the Court set a trial date.

17
18 Dated January 30, 2009.

19 **LEWIS AND ROCA LLP**

20 By: /s/ RC (#6593)
21 Susan M. Freeman, AZ 4199 (*pro hac vice*)
22 Rob Charles, NV 6593
23 John Hinderaker, AZ 18024 (*pro hac vice*)
24 Counsel for USACM Liquidating Trust
25
26

1 PROOF OF SERVICE

2 COPY of the aforementioned sent via e-
3 mail or U.S. First Class Mail on January
4 30, 2009 to the parties listed on Post-
Effective Official Service List for Limited
Notice No. 4 Dated January 8, 2008.

5 /s/ Carrie Lawrence

6 Carrie Lawrence
7 Lewis and Roca LLP